

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

BYRD UNDERGROUND, LLC,

Plaintiff(s),

v.

AUTOMATIC DATA PROCESSING, INC.,

Defendant(s).

Case No. 2:22-cv-01329-CDS-NJK

**ORDER**

[Docket No. 57]

Pending before the Court is a stipulation to extend case management deadlines by 90 days. Docket No. 57.

A request to extend unexpired deadlines in the scheduling order must be premised on a showing of good cause. Fed. R. Civ. P. 16(b)(4); Local Rule 26-3. The good cause analysis turns on whether the subject deadlines cannot reasonably be met despite the exercise of diligence. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 610 (9th Cir. 1992). The required showing of diligence is measured by the conduct displayed throughout the entire period of time already allowed. *See, e.g., Muniz v. United Parcel Serv., Inc.*, 731 F. Supp. 2d 961, 967 (N.D. Cal. 2010). “When a request to extend case management deadlines is made by stipulation, courts may consider the joint nature of the request in deciding whether the circumstances warrant an amendment to the scheduling order. Nonetheless, courts addressing such requests are deciding at bottom whether to modify their own orders, an issue that need not be based necessarily on the promptings of the parties.” *Williams v. James River Grp.*, 627 F. Supp. 3d 1172, 1178 (D. Nev. 2022).

The instant stipulation proffers a few different reasons for the requested extension, of varying persuasiveness, ranging from the need to resolve certain discovery disputes to the pendency of a motion to dismiss. *See, e.g.,* Docket No. 57 at 4, 5. The circumstances presented

1 warrant an extension, but not one spanning three months.<sup>1</sup> Instead, the Court will allow a 30-day  
2 extension to the case management deadlines.

3 Accordingly, the stipulation to extend case management deadlines is **GRANTED** in part  
4 and **DENIED** in part. Deadlines are **RESET** as follows:

- 5 • Amend pleadings/ add parties: closed
- 6 • Initial experts: October 13, 2023
- 7 • Rebuttal experts: November 12, 2023
- 8 • Discovery cutoff: December 12, 2023
- 9 • Dispositive motions: January 11, 2024
- 10 • Joint proposed pretrial order: February 13, 2024, or 30 days after resolution of  
11 dispositive motions

12 IT IS SO ORDERED.

13 Dated: September 11, 2023

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16 Nancy J. Koppe  
17 United States Magistrate Judge  
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28 <sup>1</sup> To be crystal clear, the pendency of a motion to dismiss does not justify a delay of  
discovery. *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011).